IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 83 of 2004
with
CIVIL APPLICATION No.1865 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.A.PUJ

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BIRGHAJI KHAJULI

Versus

VINOD GANPATLAL SHELAT

Appearance:
1. Appeal from Order No. 83 of 2004
MR RAVINDRA SHAH for Appellant
MR KV SHELAT for Respondent Nos. 1-2
RULE SERVED for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE K.A.PUJ

Date of decision: 03/05/2004

ORAL JUDGEMENT

1. This Appeal from Order is filed by the appellant against the order dated 28.01.2004 passed by the Small Causes Judge, Ahmedabad, below an application Ex.30 in H.R.P.No.206 of 2002, whereby the learned trial Judge has allowed the application, moved by the original plaintiff - present respondent and the defence of the defendant was

struck out.

2. Heard Mr.Ravindra Shah, learned advocate appearing for the appellant and Mr.K.V.Shelat, learned advocate appearing for the respondent. Both the learned advocates have, jointly, made a request that the present Appeal from Order can be disposed of, by giving direction to the present appellant - original defendant to produce a copy of electricity bill and the certificate issued under the Shops and Establishment Act, before the trial Court and on this point, the impugned order may be quashed and set aside with the direction to the trial Court to decide and dispose of the suit itself, after considering the defence of the defendant. The trial Court is directed to decide and dispose of the suit, after considering the defence of the defendant as expeditiously as possible, preferably within six months from the date of receipt of the writ of this order or from the date of receipt of certified copy of this order, whichever is earlier. The trial Court is, therefore, directed to consider the above documents, if produced at the time, when the suit is taken up for trial and final disposal, along with the defence of the defendant.

3. With the aforesaid observation and direction, this Appeal from Order is, accordingly, disposed of.

4. In view of the order passed in Appeal from Order, Civil Application No.1865 of 2004 does not survive and the same is, accordingly, disposed of.

[K. A. Puj,J.]

(vijay)